

Senate Bill 478
February 19, 2009
Presented by Paul Sihler
Senate Agriculture, Livestock and Irrigation Committee

SENATE AGRICULTURE

EXHIBIT NO. 15

DATE 2-19-09

BILL NO. SB 478

Mr. Chairman and committee members, for the record I am Paul Sihler, Administrator of the Field Services Division of Montana Department of Fish, Wildlife & Parks (FWP).

With deference to former FWP Commissioner and current Senator John Brenden, FWP stands in opposition to SB 478.

FWP's mission, as defined by the Montana Legislature, includes the conservation of fish and wildlife habitat and the acquisition of public recreation. There are three primary strategies used by the department to achieve this mission: (1) fee title acquisition, (2) perpetual conservation easements and (3) leases. FWP has been fairly balanced and responsible in how we have applied each of these strategies, with about 318,000 acres of land currently owned in fee title, conservation easements on about 387,000 acres of land and 296,000 acres of land under lease.

HB 478 removes perpetual conservation easements from the department's toolbox, and is problematic for several reasons.

First, in some instances FWP acquires conservation easements at a bargain sale. This means that the landowner donates a portion of the value of the easement to the department with the expectation that he will receive a federal tax benefit for the donated value. Only perpetual conservation easements, not term conservation easements, are eligible for federal tax benefits. As a result, landowners would have less incentive to donate all, or a portion of, the value of a conservation easement, and Montana sportsmen could end up paying more.

Second, a number of our conservation easements are purchased with money from a funding source that requires that conservation easements to be perpetual. The Dingle-Johnson, Pittman-Robertson, Habitat Conservation Plan, Forest Legacy, State Wildlife Grant and Bonneville Power Administration funding programs all require that conservation easements be perpetual. These programs will not fund term easements but they will fund fee title acquisitions. The magnitude of these dollars to Montana habitat and public access programs is substantial and exceeds the amount of state funding.

Third, perpetual conservation easements provide the department with the ability to permanently conserve land and provide perpetual hunting access while also keeping the property in private ownership and in agricultural production. This is a win-win situation for sportsmen, FWP, the landowner and rural communities and businesses that are dependent upon the land remaining in production.

Mr. Chairman and members of the committee, the effect of SB 478 will be to encourage FWP to spend its limited land acquisition dollars on fee purchases because, in comparison, term conservation easements simply do not deliver the bang for the buck that Montana hunters and anglers deserve. If SB 478 passes, our only option for permanent habitat conservation will be fee title acquisition.

For these reasons, I urge you to kill SB 478.